

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	
)	
)	
Petition of Alltel Communications, Inc. for Consent to Redefine)	CC Docket No. 96-45
the Service Areas of Rural Telephone Companies in the State of)	
Michigan)	DA 03-4112

COMMENTS OF CENTURYTEL, INC.

CenturyTel, Inc. ("CenturyTel"), through its attorneys, hereby offers the following Comments in response to the Federal Communications Commission's ("FCC" or "Commission") Public Notice seeking comment in the above-referenced proceeding.¹

I. INTRODUCTION AND SUMMARY

On September 11, 2003, the Michigan Public Service Commission ("Michigan PSC") approved the request of ALLTEL Communications, Inc. ("Alltel") to be designated as an eligible telecommunications carrier ("ETC") in areas served by rural and non-rural incumbent local exchange carriers ("ILECs") for the purpose of receiving universal service support.² The Michigan PSC granted Alltel ETC status where requested and found to be in the public interest the redefinition of its service areas so they are not the same as the study areas of certain rural

¹ *The Wireline Competition Bureau Seeks Comment on Alltel's Petition to Redefine Rural Telephone Company Service Areas in the State of Michigan*, Public Notice in CC Docket 96-45, DA 03-4112 (rel. Dec. 30, 2003) ("Public Notice").

² *In the Matter of the Application of ALLTEL Communications, Inc. for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934*, Case No. U-13765, Opinion and Order (Sept. 11, 2003) ("Michigan PSC Designation Order").

telephone companies (“Rural ILECs”). On December 17, 2003, Alltel filed a petition at the FCC for consent to redefine its service areas so they differ from the study areas of certain Rural ILECs in the areas served by Alltel.³ Specifically, Alltel requested FCC approval to redefine its service areas in areas served by the following four CenturyTel companies to the individual exchanges of each company: CenturyTel of Midwest-Michigan, Inc.; CenturyTel of Michigan, Inc.; CenturyTel of Upper Michigan, Inc.; and CenturyTel of Northern Michigan, Inc. On December 30, 2003, the FCC sought comment on the Petition.⁴

CenturyTel opposes Alltel’s proposal to redefine the CenturyTel service areas at the exchange level for three major reasons. First, Alltel’s proposal encourages cherry picking. Second, redefining CenturyTel’s service areas in the proposed manner is inconsistent with CenturyTel’s Path 3 disaggregation filings for three of its companies. Finally, CenturyTel of Northern Michigan did not disaggregate support; therefore, the FCC should not redefine this LEC’s service area without giving it an opportunity to reconsider whether it should disaggregate support.

In the event that the FCC grants Alltel’s Petition, it should issue a written decision explaining its rationale, rather than allowing the Petition to automatically take effect. Significantly, the FCC should require Alltel to serve the entire territory of the rural ILECs through a combination of its own facilities and resale of other carriers’ facilities and to comply with the same state requirements as the carrier-of-last-resort.

³ Petition of Alltel Communications, Inc. for Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Michigan, filed in CC Docket No. 96-45 on Dec. 17, 2003 (“Petition”).

⁴ Public Notice.

II. THE FCC SHOULD NOT ALLOW CENTURYTEL'S SERVICE AREA TO BE REDEFINED FOR ALLTEL WITHOUT A WRITTEN COMMISSION DECISION.

In 1997, the FCC adopted procedural rules that allow a rural carrier's service area definition to be changed without the issuance of a written FCC decision demonstrating that the FCC actually considered the Federal-State Joint Board's recommendations before adopting the new service area definition. Specifically, Section 54.207(c)(3)(ii) of the FCC's rules provides that, if the FCC declines to act on the petition within 90 days of the public notice, the petition will automatically be deemed approved by the FCC.⁵ As CenturyTel has argued in prior comments, Section 214(e)(5) of the Communications Act of 1934, as amended (the "Act"), requires the FCC to take into consideration the Federal-State Joint Board's recommendations before changing the service area for a rural carrier. A written decision documents whether the FCC actually considered the Joint Board's recommendations, as well as all the arguments made -- both in support of *and* against the Petition. As demonstrated herein, there is considerable debate regarding the merits of the Petition, which the FCC must demonstrate that it has fully considered. The FCC should not allow the Petition to take effect automatically as it has done with other petitions.⁶

III. THE COMMISSION SHOULD DENY ALLTEL'S PETITION TO REDEFINE CENTURYTEL'S SERVICE AREA AT THE EXCHANGE LEVEL.

A. Alltel's proposed redefinition encourages cherry picking.

Redefining CenturyTel's service area at the exchange level would allow Alltel to qualify for universal service funding by serving any one of CenturyTel's exchanges in that study

⁵ 47 C.F.R. § 54.207(c)(3)(ii).

⁶ See e.g., Application for Review or, Alternatively, Petition for Reconsideration of CenturyTel of Eagle, Inc. filed in CC Docket 96-45 on Dec. 17, 2002.

area. Allowing Alltel to pick and choose which exchanges to serve inevitably will lead to cherry picking of customers with no tangible benefit to them. If the Commission allows Alltel to serve only one exchange and receive support based on CenturyTel's study area-wide costs, Alltel would have a strong incentive to serve only the lowest cost exchanges in the study area and to ignore the relatively high-cost exchanges. Thus, the public interest dictates that the Commission should deny grant of Alltel's Petition as contrary to the public interest.

- B. To require that CenturyTel's current study areas be divided into 53 smaller ETC service areas is inconsistent with CenturyTel's disaggregation filing and is not in the public interest.

Rural carriers have been given the choice to disaggregate support below the study area level because this allows the carriers to more accurately target per-line support to the relatively higher cost lines, as the FCC and the Rural Task Force intended. In the *RTF Order*, the Commission permitted rural carriers to elect one of three paths to disaggregate and target per-line high-cost support into geographic areas below the study area level.⁷ Under the *RTF Order's* Path 3 self-certification process, carriers were allowed to choose a disaggregation plan of no more than two cost zones per wire center or a disaggregation plan that complies with a prior regulatory determination.⁸ As discussed below, on May 13, 2002, CenturyTel of Midwest-Michigan, Inc., CenturyTel of Michigan, Inc., and CenturyTel of Upper Michigan, Inc., elected to disaggregate and target high-cost universal service support under Path 3 in the state of

⁷ *In the Matter of Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244 (2001) ("*RTF Order*").

⁸ 47 C.F.R. § 54.315(d).

Michigan.⁹ Due to low customer density, CenturyTel of Northern Michigan, Inc. elected Path 1, *i.e.* no disaggregation.

Rather than divide the current service area into 53 smaller ETC service areas, in those instances where CenturyTel chose Path 3, CenturyTel urges the FCC to partition the current service area into two zones and require Alltel to serve all of the wire centers within the zone. Doing so would be consistent with CenturyTel's disaggregation plan and would serve the public interest. The disaggregation plan for the CenturyTel companies that chose Path 3 established two support zones for the entire study area, with each wire center assigned to one or the other zone. For disaggregating loop-related support, CenturyTel defined a lower-cost zone for those wire centers requiring relatively less loop-related support, while the remaining support assigned to the study area was distributed to the remaining lines in the higher cost wire centers. Separating the state into two support zones, as CenturyTel did, decreases the chances that support will be misdirected. Although CenturyTel was able to calculate relative cost down to the wire center, support was established based on two support zones – not 53 smaller areas, as Alltel proposes. Each of the two zones is comprised of wire centers with relatively similar cost characteristics, although costs are averaged within each zone. Dividing the current service area, comprised of the entire study area, into 53 ETC service areas is inconsistent with CenturyTel's two-support zone disaggregation filing and will not bring the benefits of competition to all customers. It would allow a carrier that does not have to serve an entire zone to target only the most profitable wire centers within the zone and receive high-cost support even though the CETC's average costs may be lower than the ILEC's.

⁹ <http://www.universalservice.org/hc/disaggregation/checklist.asp>.

- C. The FCC should not redefine CenturyTel of Northern Michigan's service area without giving the company an opportunity to re-evaluate whether it should disaggregate support.

The Commission should deny or postpone action on Alltel's Petition to redefine CenturyTel of Northern Michigan's service area at the exchange level, until CenturyTel of Northern Michigan is given the opportunity to re-evaluate whether to disaggregate support at the exchange level also. As noted above, CenturyTel of Northern Michigan elected not to disaggregate support in the state of Michigan.¹⁰ Based on CenturyTel of Northern Michigan's careful analysis at that time of a number of factors, including the level of competition in the market, low customer density, costs, and the amount of available support, this was a sensible decision not to expend resources at that time. Consequently, CenturyTel of Northern Michigan does not target federal universal service support payments to its individual exchanges but instead allocates support across the study area based on its average per-line costs for the entire study area. If Alltel were allowed to receive high-cost support based on CenturyTel's average cost of serving all the exchanges in the study area, Alltel may receive artificially inflated support in some exchanges, while declining to serve customers in the higher-cost exchanges.

CenturyTel urges the Commission to ensure that Alltel does not receive high-cost universal service support until after CenturyTel of Northern Michigan has had an opportunity to re-evaluate whether to de-average support, in light of the Alltel's Petition to break up the Rural ILEC service area into individual exchange-sized service areas for purposes of obtaining federal support. CenturyTel's approach will not result in any customer harm because Alltel is already successfully competing in many of the Rural ILEC markets without receiving support. As the Commission stated in the *RTF* Order, "the level of disaggregation of support should be

¹⁰ *Id.*

considered in determining whether to certify new [ETCs] for a service area other than a rural carrier's entire study area to ensure that competitive neutrality is maintained between incumbent carriers and competitive [ETCs]."¹¹ The Commission also noted in the *RTF Order* that if, after a carrier has chosen a disaggregation plan, as is the case here, "a state receives a request to require a carrier to disaggregate and target support," the Commission expects that the state "will be guided in making a determination on the request by [the Commission's] view that support should generally be disaggregated and targeted in a manner that the per-line level of support is more closely aligned with the cost of providing service."¹² Because support continues to be based on CenturyTel of Northern Michigan's cost of providing service to the *entire* study area, the Petition fails to ensure that support is aligned with costs. This failure could confer an unfair competitive advantage on Alltel with no additional incentive to provide service to all affected Michigan customers.

To provide greater certainty and to discourage cream-skimming, CenturyTel urges the Commission either to grant CenturyTel of Northern Michigan the opportunity to evaluate whether it should disaggregate support at a more granular level, as described above, or, in the alternative, require Alltel to serve CenturyTel of Northern Michigan's entire study area.

IV. ALLTEL COULD SERVE THE ENTIRE TERRITORY OF THE RURAL ILECS THROUGH A COMBINATION OF ITS OWN FACILITIES AND RESALE.

In the state ETC designation proceeding, the Michigan PSC declined proposals from the Rural ILEC community to require that Alltel's service area encompass the ILEC's

¹¹ *RTF Order*, 16 FCC Rcd at 11308 ¶164.

¹² *Id.* at 11303 ¶148.

entire study area.¹³ Pursuant to the *Michigan PSC Designation Order* and Alltel's Petition, the CMRS carrier would not be required to serve the study areas of the Rural ILECs in their entirety, either using its own facilities or a combination of its own facilities and resale of another carrier's services, as provided in the Act and the FCC's rules.¹⁴ The Michigan PSC nevertheless concluded that designating Alltel as a competitive ETC would serve the public interest, in part, because it will increase competition in those areas served by the Rural ILECs.

The *Michigan PSC Designation Order*, however, does not satisfy the public interest standard set forth in Section 214(e) of the Act. In fact, the Michigan PSC abdicated its responsibility under the Act by refusing to address legitimate concerns raised about the negative effects of competition on the universal service mechanism, claiming that these matters were better addressed by the FCC.¹⁵ While the FCC has an obligation to examine the impact of competition on the universal service fund, the statute also imposes this obligation on the Michigan PSC.¹⁶ The Michigan PSC's failure to evaluate the impact on the universal service fund of an additional ETC in a rural market represents an abdication of its responsibility.

Furthermore, Alltel's Petition will not bring rural consumers the increased competitive choice that the Michigan PSC anticipates it will. The Petition does not assert that Alltel is a new service provider in CenturyTel's study areas. Nor does the Petition require Alltel to provide service throughout CenturyTel's study areas, thereby truly bringing competitive choice to *all* customers not now served by Alltel. As noted above, the contemplated service area

¹³ *Michigan PSC Designation Order* at 14.

¹⁴ 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.201(d)(1).

¹⁵ *Michigan PSC Designation Order* at 12.

¹⁶ See 47 U.S.C. § 214(e)(2); 47 U.S.C. § 214(e)(5).

redefinition will only encourage cherry-picking of customers. Alltel should be required to serve the entire study area. Alltel's lack of facilities does not preclude it from serving the ILECs' entire study areas. Alltel can and should be required to expand its coverage to serve the Rural ILECs' entire study areas through some combination of its own facilities and resale of another carrier's services. Such a requirement will help achieve the purpose of the support: to ensure all customers have access to comparable services at affordable rates.

V. ALLTEL SHOULD BE REQUIRED TO COMPLY WITH STATE REQUIREMENTS.

In the state designation proceeding, the Michigan PSC concluded that Alltel will not be subject to that state's carrier-of-last-resort responsibilities and obligations because the Michigan legislature has determined that the Michigan PSC should not regulate wireless service.¹⁷ While the Michigan PSC may lack the power to subject wireless carriers to carrier-of-last-resort responsibilities, the FCC, in an effort to further the goals of the federal universal service system, may require Alltel to comply with the state's carrier-of-last resort requirements. As CenturyTel has advocated previously, a CETC should be required to comply with the same state requirements as the carrier-of-last-resort or the ILEC serving the area for which the CETC seeks universal service support to achieve anticipated public benefits.¹⁸ Subjecting CETCs and ILECs to different rules inures an unfair competitive advantage to CETCs without doing anything to advance universal service or ensure that support is used for that intended purpose. Accordingly, Alltel should be required to comply with the same state requirements as CenturyTel.

¹⁷ *Id.* at 13.

¹⁸ *See, e.g.*, Letter from Karen Brinkmann to Secretary Dortch filed November 18, 2003 (Notice of *Ex Parte* Presentation in CC Docket No. 96-45) at 5.

VI. REDEFINITION OF THE RURAL ILECS' SERVICE AREAS BEFORE THE FCC RESOLVES THE ISSUES RAISED IN THE CETC PROCEEDING IS PREMATURE.

CenturyTel believes that redefining the Rural ILECs' service areas in the manner proposed by Alltel is premature. The Commission has before it a number of requests to modify rural service areas for competitive ETCs that do not desire to serve the entire study area of the rural LEC on whose federal universal support they desire to draw.¹⁹ CenturyTel has faced redefinition of rural service areas in several states, and, despite strong opposition by CenturyTel and others, the requests for redefinition are invariably granted with only a cursory public interest analysis. Most recently, the Commission approved the redefinition of CenturyTel rural service areas in Alabama and Colorado, so that each CenturyTel exchange is a separate service area for competitive ETCs.²⁰ In Colorado, the service area redefinition went into effect without the Commission even issuing an order and, in both Colorado and Alabama, the Commission is

¹⁹ *Pleading Cycle Established for Comments Regarding Applications for Review of Orders Designating Eligible Telecommunications Carriers in the State of Alabama*, FCC Public Notice in CC Docket 96-45 (rel. Jan. 10, 2003); *Pleading Cycle Established for Comments on Proceeding Regarding the Definition of the Rural Service Areas of Two Rural Telephone Companies in the State of Colorado*, FCC Public Notice in CC Docket 96-45, DA 03-26 (rel. Jan. 7, 2003).

²⁰ *Pleading Cycle Established for Comments on Proceeding Regarding the Definition of the Rural Service Areas of Two Rural Telephone Companies in the State of Colorado*, DA 03-26, Public Notice in CC Docket No. 96-45 (Wireline Comp. Bur. rel. Jan. 7, 2003) (“*Colorado Review PN*”) (stating that the petition had been deemed granted 90 days from that the Colorado petition to redefine CenturyTel’s service area was placed on public notice); *Federal State Joint Board on Universal Service, RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, Memorandum Opinion and Order, 17 FCC Rcd 23532 (2002) at ¶ 16 (“*RCC Alabama ETC Order*”); *Federal State Joint Board on Universal Service, Cellular South License, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, Memorandum Opinion and Order, 17 FCC Rcd 24393 (2002) at ¶ 18 (“*Cellular South Alabama ETC Order*”).

reviewing its decisions to approve the service area redefinitions.²¹ Commission precedent demonstrates that service area redefinitions have broad applications and lower the bar for *all* subsequent competitive ETC designations in the rural carrier's service area with little tangible benefit for rural customers who live in those service areas.²² For example, in the *Michigan PSC Designation Order*, the Michigan PSC cited to its prior commission orders as support for not requiring Alltel to provide service to the entire study area of rural ILECs. This outcome, however, is contrary to Section 214(e) of the Act, which requires that each rural ETC designation must be reviewed and granted only if determined to be in the public interest.

Both the Petition and the *Michigan PSC Designation Order* claim that redefining the Rural ILECs' service areas serves the public interest. Neither the Petition nor the *Michigan PSC Designation Order* proposes to bring any "new competition" to the market, however. Rather, the Petition will result in a windfall in federal support to Alltel for doing exactly what the carrier is doing today without support. Because Alltel has not demonstrated any interest or initiative in seeking ways to serve the entire Rural ILECs' study areas, the Petition appears to be a filing of convenience for Alltel rather than a filing that will promote universal service to rural Michigan customers. CenturyTel has filed extensive comments in this docket²³ and given

²¹ See *Pleading Cycle Established for Comments Regarding Applications for Review of Orders Designating Eligible Telecommunications Carriers in the State of Alabama*, DA 03-45, Public Notice in CC Docket No. 96-45 (Wireline Comp. Bur. rel. Jan. 10, 2003); *Colorado Review PN* at 1.

²² *Cellular South Alabama ETC Order* at ¶ 2 (holding that the CETC applicant's request to redefine CenturyTel's service area to the wire center level was "moot," because the Commission has "recently agreed to a redefinition of the service areas of these rural telephone companies").

²³ Letter from Karen Brinkmann to Secretary Dortch filed December 30, 2002 (Notice of *Ex Parte* Presentation in CC Docket No. 96-45) at 2; Comments of CenturyTel, Inc., CC Docket 96-45, filed May 5, 2003; Reply Comments of CenturyTel, Inc., CC Docket 96-

testimony to the Joint Board on Universal Service,²⁴ arguing for clear federal standards for redefinitions such as the instant one. CenturyTel urges the Commission to postpone decision on this so it may benefit from the recommendations of the Joint Board in the pending rulemaking proceeding.²⁵ Deferring a decision for the brief period until the Commission receives the Joint Board's recommendations will not result in any harm to customers, while at the same time ensuring that the Commission does not redefine any rural ILEC's service area in a manner inconsistent with the Commission's rules.

VII. CONCLUSION

CenturyTel opposes the Petition to redefine CenturyTel's service area at the exchange level. As an initial matter, CenturyTel notes that the FCC should not allow CenturyTel's service area to be changed without a written FCC decision. With respect to the merits of the Petition, the Commission either should allow CenturyTel of Northern Michigan the opportunity to re-evaluate whether to disaggregate support at the exchange level, or require Alltel to serve CenturyTel of Northern Michigan's entire study area. Anything short of this would allow Alltel an unfair competitive advantage. Furthermore, Alltel should be required to comply with the same state requirements as the carrier-of-last-resort or the ILEC serving the area Alltel seeks to serve. Finally, CenturyTel urges the Commission to delay the redefinition of the

45, filed June 3, 2003; Letter from Karen Brinkmann to Secretary Dortch filed November 18, 2003 (Notice of *Ex Parte* Presentation in CC Docket No. 96-45).

²⁴ Prepared Testimony of Jeff Glover, Vice President of CenturyTel, Inc., on Behalf of Independent Telephone & Telecommunications Alliance, Before the Federal-State Joint Board on Universal Service, CC Docket 96-45, filed July 22, 2003.

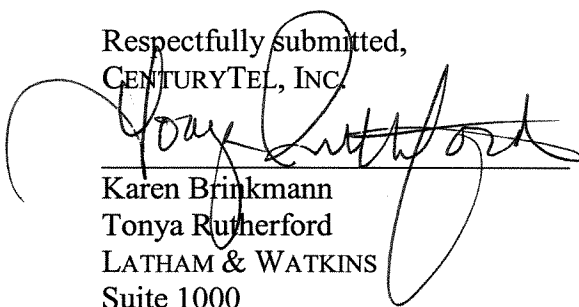
²⁵ *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, FCC 03J-1, Public Notice in CC Docket No. 96-45 (rel. Feb. 7, 2003).

Rural ILECs' service areas until the Commission resolves the issues raised in the CETC proceeding.

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January 14, 2004

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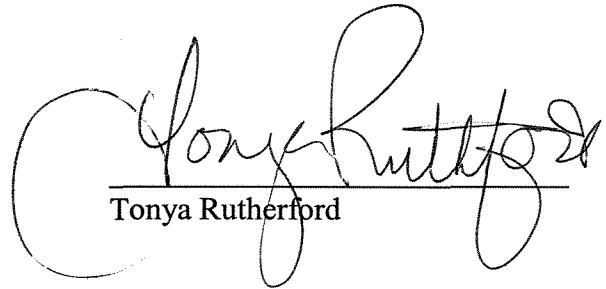
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Comments were sent by 1st Class US mail, this 14th day of January 2004, to:

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